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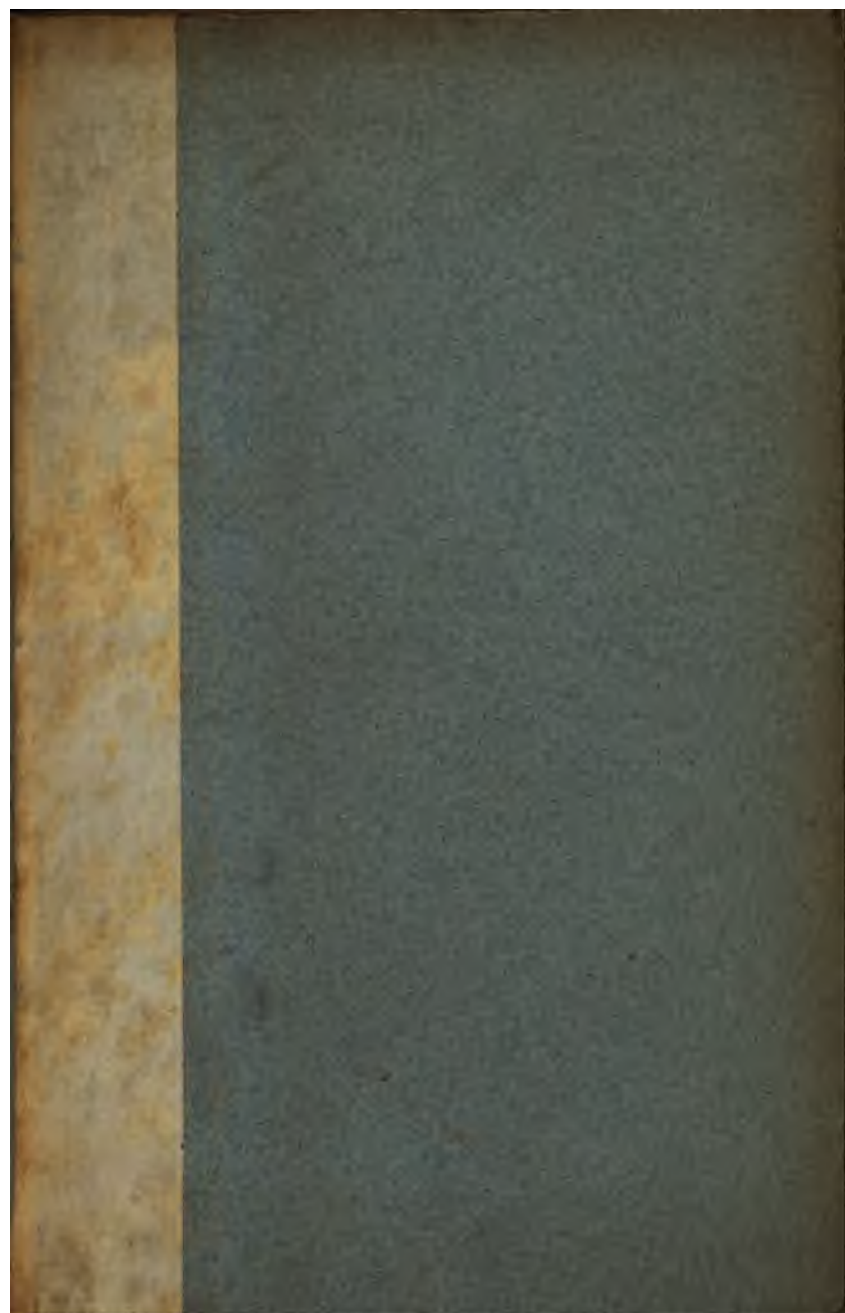
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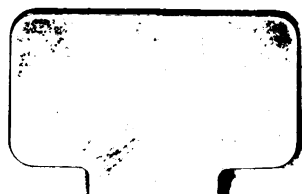
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CICERONIS

PRO ARCHIA ET PRO BALBO

ORATIONES,

VERY LITERALLY TRANSLATED,

BY

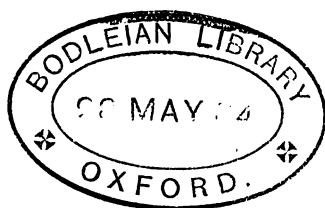
CHARLES H. CROSSE, M.A., AND M.L.,

Gonville and Caius College.

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CICERO PRO ARCHIA.

(TRANSLATED FROM THE TEXT PUBLISHED IN THE PITT
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I.—If there is in me any ability, gentlemen of the jury, and how slight this is I am sensible, or if any readiness in speaking, in which I do not deny that I am fairly experienced, or if any theoretical knowledge of this same subject, derived from devotion to the best accomplishments, and from instruction, from which I confess that no period of my life has been averse, (then), even among the first, this A. Licinius here ought almost by his own right to claim from me the benefit of all these advantages. For as far as my mind is able to look back over the space of bygone time, and to recall the earliest memory of boyhood, from that point to the present, tracing (my life), I see that my client here has been my guide both in taking up and going on with the pursuit of these studies. But if this voice of mine, shaped by his admonitions and precepts, has some times proved the safety of many, surely I am bound to render both help and protection, so far as in me lies, to that man from whom I received that (gift) whereby I am able to help some, and protect others. And lest any one perchance should wonder that this is thus asserted by me, because in my client there is a certain different natural ability and not this theoretical knowledge of and instruction in speaking, (I answer) that neither have I indeed ever been entirely devoted to this one study. For all the arts which tend to (produce) culture, have a certain common link, and are mutually held together by a sort of affinity.

II.—But that it may not seem to any of you to be astonishing that I, at a regular trial, and in a public law-court, when an action is being tried before the prætor of the Roman people, a most upright man, and before most impartial judges, with such an assembly and crowd of men, employ this mode of speaking which is repugnant not only to the custom of law-courts, but also to the language of the forum, I beg of you that in this case you would afford me this indulgence, appropriate towards the present defendant, and to yourselves, as I trust, not distasteful, (namely) that, as I am pleading for a most accomplished poet and most learned man, amid this throng of men most devoted to literature, and before men of such culture as yourselves, lastly with such a prætor holding court, you will permit me, concerning the study of cultivation and literature, to speak a little more freely (than usual), and, in the case of a character of this sort, which on account of retirement and study has seldom been represented in law-courts and trials, to employ a nearly new and unused style of oratory. And if I see that this (permission) is given and accorded me by you, I will assuredly cause you to think, that this A. Licinius here, not only ought not to be expunged from the list of citizens, since he is a citizen, but even if he were not, that he ought to have been adopted (as one).

III.—For as soon as Archias grew out of boyhood, and from those arts by which boyhood is wont to be moulded to (habits of) culture, betook himself to the pursuit of writing, first at Antioch,—for there he was born in high rank, that city, formerly populous and wealthy, and overflowing with most learned men and most liberal studies—he quickly learnt to excel all in the glory of his genius. Afterwards, in other parts of Asia and throughout all Greece, his arrivals were so talked of, that the anticipation (of seeing) the man surpassed the report of his genius, and the arrival of the man himself, and their admiration for him, surpassed all anticipation. Italy was at that time full of Greek accomplishments and systems, and these pursuits were cultivated at that time in Latium more ardently than (they are) now in the same towns; and here at Rome, owing to the peaceful condition of the state, were not

neglected. Accordingly both the Tarentines, and the people of Regium, and the Neapolitans, presented the defendant with their franchise and with other rewards, and all who were able to form any judgment about gifted men, thought him worthy of their acquaintance and hospitality. And when amid such great popularity of fame he was now well known even to persons far away, he came to Rome, when Marius and Catulus were consuls. He found in the first place those men as consuls, of whom one could furnish the greatest exploits to write about, the other, both exploits and also interest and attention. Immediately the Luculli, though Archias was even then wearing the toga prætexta, admitted him into their household. But this also is (a mark), not only of literary genius, but also of his virtuous disposition, that a family, which was the first to assist him in his youth, the same is most intimate with him in his old age. In those days he was on intimate terms with Q. Metellus—that one of Numidian fame—and his son Pius; he was listened to by M. Æmilius; he used to pay visits to Q. Catulus—both the father and the son; he was sought after by L. Crassus; and while he held the Luculli and Drusus, and the Octavii and Cato, and the entire family of Hortensii bound to him by the ties of intimacy, he was treated with the highest honour, for, not only did those cultivate him who were anxious to learn and hear something, but also any who pretended (to be anxious).

IV.—In the meantime, after a sufficiently long interval, when he had left for Sicily with M. Lucullus, and when he had departed from that province with the same Lucullus, he came to Heraclia. And since this community was (enjoying) the most favourable status and treaty, he wished himself to be enrolled in that state; and this (favour)—though he was thought to be worthy of it for his own sake—he gained from the Heracliotēs both by the influence and interest of Lucullus. The (Roman) franchise was granted by the law of Silvanus and Carbo to any who had been enrolled in federate states, if at the time when the law was passed they had a fixed home in Italy, and if within sixty days they had given in their names before a prætor. Since my client had had a fixed home at Rome

now for many years, he gave in his name before the prætor Q. Metellus, his own most intimate friend. And if I am to say nothing except about the franchise and the law, I say no more; the case is pleaded. For which of these facts, Gratius, can be invalidated? Will you deny that at Heraclia he was enrolled as a citizen? A man is here of the highest influence scrupulosity and honour, M. Lucullus, who says that he does not think but knows, has not (merely) heard but saw, was not merely present but brought it about. There are here deputies of Heraclia, men of the highest rank; they have come for the sake of this trial with instructions and a public testimonial, and they say that the defendant was enrolled as a Heracliot. Hereupon you require the public records of the Heracliot, which we all of us know to have perished in the Italian war, when the record office was burnt. It is ridiculous to say nothing to those (proofs) which we have, but to call for those which we cannot possibly have, and to be silent about the memory of men, but to clamour for the memory of documents; and, when you have the scrupulous statement of a most eminent man, and the oath and word of honour of a highly respectable municipality, to reject these proofs, which can by no means whatsoever be invalidated, but to require written records, which you yourself say are wont to be falsified. Or (was it that) he had not a fixed home at Rome? What, he who for so many years before the franchise was granted, fixed the seat of all his property and fortunes at Rome? Or (was it that) he did not give in his name? Rather indeed he entered it in those records which alone (originating from) the registration which then took place, and from the whole body of prætors, (still) retain the authority of public archives.

V.—For whereas the registers of Appius were said to have been kept too negligently, while the worthless behaviour of Gabinius, as long as he was uncondemned, and his disgrace after his conviction, had destroyed the whole credit of the registers, Metellus, a man most conscientious and most loyal of all, was so careful that he came to L. Lentulus the prætor, and to the jurors, and said that he had been disconcerted by an erasure of one name. In

these registers then you see the name of A. Licinius, with no erasure. And since these things are so, what is there to make you doubt about his (title to the) franchise, especially when he was enrolled in other states besides? For at a time when in Greece, men used to confer their franchise on many persons of average ability and gifted either with no accomplishment or some humble one, the Rhegines, I suppose, or the Locrians, or the Neapolitans, or the Tarentines, refused to the defendant, possessed of the highest reputation for genius, what they were wont to give freely to theatrical artists. What (will you say to the next question)? when other persons, not only after the granting of the franchise, but even after the Papian law, by some means or other crept into the registers of those municipalities, shall my client, who does not even use those (registers) on which he is entered, because he always wished to be a Heracliot, be expelled? You require our census returns. Of course; for it is not known, (I suppose), that, when the last censors (were in office), the defendant was with that famous commander L. Lucullus with the army; that when the previous ones (were in office), he was with the same man when quaestor in Asia; that while the first censors Julius and Crassus (were in office) of no part of the people was a regular census taken. But since the census does not confirm the right of citizenship, and only indicates that the person who was returned at that particular time claimed to be a citizen, (I tell you) that at that time, he, against whom you make the accusation that not even in his own opinion had he a share in the rights of Roman citizens, both often made a will according to our laws, and entered on inheritances (bequeathed) by Roman citizens, and in the reward list was often mentioned to the treasury by L. Lucullus the proconsul. Seek (other) arguments, if any you can; for my client will never be convicted either by his own judgment or that of his friends.

VI.—You will ask me, Gratius, why I am so greatly pleased with this man. (Why) because he supplies to me (a refuge) where both my mind can be refreshed after this noise of the law-courts, and my ears wearied by brawling can rest. Or do you think either that I could supply to

myself (all the matter) which I daily utter on such a great variety of subjects, unless I cultivated my mind by study, or that my mind could bear such a strain, unless I relaxed it by that same study? I indeed confess that I am devoted to such pursuits; let others be ashamed, if they have so buried themselves in literary occupations that they can contribute therefrom nothing either to the public advantage, or bring anything forth into sight and light; but why should I be ashamed, who for so many years have been so living, gentlemen, that, from anyone's peril or convenience, no leisure of my own has ever drawn me, no pleasure called me, not even sleep, in short, has detained me? Wherefore who I ask can censure me, or who can rightly be angry with me, if, as much time as is given up by others to the performance of their business, to attending at the holiday games, to other pleasures, and to the repose itself of mind and body, as much as others devote to protracted banquets, and lastly to the dice-board and the game of ball, so much I myself shall appropriate to renewing my acquaintance with these studies. And all the more ought this (permission) to be granted to me, because (it is) from these studies this my power of speaking progresses, and this faculty, which, as far as it exists in me, has never been wanting to my friends in their trials. But if to anyone this seems of slight account, at all events I know from what source I imbibe those (principles) which are of the highest account. For unless by the maxims of many (writers) and by many books, I had convinced myself from youth, that there was nothing in life very greatly to be aimed at except merit and virtue, and, in pursuing them, all tortures of the body, all dangers of death and of exile, were to be held of small importance, I should never, for your security, have exposed myself to so many and so great struggles, and to these daily attacks of abandoned men. But all books are full, the voices of sages are full, antiquity is full of examples: all of which would lie in darkness, did not the light of literature approach them. How many pictures of the bravest men vividly drawn have writers, both Greek and Latin, left behind for us, not only to gaze at, but to imitate, and these I, always setting before myself (as a pattern) in performing my public duties,

used to mould my heart and mind, by the mere thought of these excellent men.

VII.—Someone will ask “Why, were those same great men, whose virtues are handed down by writings, schooled in that learning which you extol with praises?” It is difficult to assert this concerning all, but nevertheless it is clear what I can answer. I confess that many men have proved of surpassing mind and virtue without (the aid of) learning, and by the almost divine constitution of their nature have become by themselves both self-controlled and earnest: nay, this also I add, that natural genius without learning has oftener availed to (produce) excellence and virtue, than has learning without natural genius. And I further maintain this, that when to a natural genius, surpassing and brilliant, has been joined a certain methodical training and cultivation afforded by learning, then that something noble and extraordinary is wont to be the result; that of this number is he whom our fathers beheld, that glorious man, Africanus, to this number (belong) C. Laelius, L. Furius, most self-controlled and temperate men, to this number that very brave and for those times highly learned man, the famous old M. Cato: who surely, if they had derived no help from literature in grasping and practising virtue, would never have applied themselves to the pursuit of those things. But if this so great advantage were not displayed, and if from these pursuits amusement alone were the object, yet, as I fancy, you would decide that this relaxation of the mind (was) most conducive to culture and refinement. For other (relaxations) do not suit all times or ages or places; but these pursuits nourish youth, delight old age, adorn prosperity, afford shelter and consolation in adversity, amuse (us) at home, do not hinder (us) when abroad, are companions to us in the night, accompany us upon our travels, accompany us in our country visits.

VIII.—But if we ourselves could neither touch these advantages, nor taste them with our own senses, yet we ought to admire them, even when we see them in others. Which of us was of such a churlish and hard heart, as not to be deeply affected lately by the death of Roscius? who, though he was so old when he died, yet on account of his

perfect skill and grace, appeared (to be one who) ought not to have died at all? Therefore he by activity of body, had attracted this great affection to himself from us all; and shall we despise the extraordinary activity of the mind and the quickness of natural genius? How many times have I seen the defendant Archias—gentlemen of the jury, I avail myself of your kindness, since you listen to me so closely in this new style of oratory—how many times have I seen him, when he had not written a word, recite on the spur of the moment a great quantity of excellent lines on the very events which were then taking place! How often (have I seen him) recalled, describe the same subject with words and thoughts changed! And what he had written with care and thought, this I have seen so approved, that (their author) attained the celebrity of the ancient writers! Should I then not love this man? Should I not admire him? Am I not to regard him (as one) to be defended by every possible means? And indeed we have so learnt from the greatest and the most learned men, that the study of other sciences is based on instructions, and rules, and method, but that the poet draws his strength from nature herself, and is stimulated by the vigour of (his own) mind, and is inspired as it were by some divine breath. And therefore by his own right that great Ennius of ours calls poets sacred, because they seem to be recommended to us by some gift and blessing of the Gods. Let then, gentlemen, this name of poet which no barbarians have ever outraged, be sacred among you who are men of great culture. Even stones and deserts return answer to a voice, often huge brutes are turned aside by singing and stand still; and are we, (men) trained in the highest principles, not to be moved by the voice of the poets? The Colophonians assert that Homer was their citizen, the Chians claim him as theirs; the people of Salamis demand him, the Smyrnæans indeed affirm that he is theirs, and therefore they have even consecrated a shrine to him in their town; very many others besides fight and struggle among themselves (for the honour).

IX.—So they even claim a foreigner, because he was a poet, after his death; and shall we reject my client while

living, a man who both in wish and by the laws is ours? Especially when Archias long ago devoted every energy and every ability (he had) to spreading the praises of the Roman people? For while a youth he touched upon the Cimbric war, and was even approved by C. Marius himself, a man who seemed somewhat insensible to these pursuits. For there is no one so disinclined for the Muses, as not readily to allow a lasting encomium of his labours to be expressed in poetry. They say that the great Themistocles, the greatest man that Athens produced, when some one enquired of him what sound or whose voice he liked best to hear, said "(the voice) of him, by whom his own valour was best set forth." Therefore that same Marius was also remarkably attached to L. Plotius, by whose genius he thought that the exploits which he had performed might be spread. As for the Mithridatic war indeed, so great and arduous and waged with so much variety (of fortune) by land and sea, it was treated by my client from beginning to end; and these books make illustrious not only L. Lucullus, that very brave and most famous hero, but also the name of the Roman people. For the Roman people, under the generalship of L. Lucullus, opened up Pontus, defended formerly by a king's wealth, by its own natural strength, and by its situation; the army of the Roman people under the same general, with no very great numbers, routed countless forces of Armenians; it is the glory of the Roman people that the very friendly city of the Cizicenes was, by the same man's advice, rescued and preserved from all the attacks of the king, and from the mouth and jaws of the whole war; that wonderful sea-fight at Tenedos will always be talked of and described as our achievement, wherein Lucullus fought, when the admirals were killed and the enemy's fleet was sunk; ours are the trophies, ours the monuments, and ours the triumphs: and when these (exploits) are extolled by their genius, by them the renown of the Roman people is spread abroad. Our (poet) Ennius was beloved by Africanus the Elder, and therefore, even on the tomb of the Scipios, a statue of him is thought to have been set up (carved) of marble; yet undoubtedly by those encomiums not only he who is praised, but also the name

of the Roman people is adorned. Cato, the ancestor of the present (Cato) is lauded to the skies; great lustre is (thereby) conferred on the exploits of the Roman people. Finally all those heroes, the Maximi, Marcelli, Fulvii, are honoured not without praise (being conferred) upon all of us in common.

X.—Therefore the man who did this, a native of Rudiaë, our ancestors admitted to the citizenship; and shall we expel from our citizenship the defendant here, a Heracliote, eagerly sought after by many States, but legally established in this one? For if anyone imagines that a smaller yield of glory is gathered from Greek poetry than from Latin, he is greatly mistaken, for this reason, because Greek is read among nearly all nations, while Latin is confined to its own boundaries (which are) small enough in truth. Therefore if those achievements which we have performed are limited (only) by the quarters of the known world, we ought to desire that, where the weapons wielded by our hands have penetrated, to the same place our fame and renown should penetrate; because this, while honourable to the peoples whose achievements are written of, so undoubtedly to those who are fighting for their life for glory's sake, this is their greatest incentive both to danger and toil. How many writers of his exploits that Alexander the Great is said to have had with him! And yet that Alexander, when at Sigeum, he stopped at the tomb of Achilles, said, "O fortunate youth, who didst find a Homer as the herald of thy valour!" And (he spoke) truly; for, unless the Iliad had existed, that same tomb which had covered his body, would also have buried his name. What? did not our own Pompey the Great, he who made his fortune equal to his valour, present Theophanes the Mitylenæan, the historian of his achievements, with the franchise at a military assembly, and did not those our brave men, country-bred and simple soldiers (as they were), moved by a certain sweetness of fame, applaud that gift with loud acclamations, as if partakers of the same renown? So, I suppose, if Archias had not been a Roman citizen by the laws, he could not have managed to be presented with the citizenship by any general. I suppose Sulla, though he gave (the citizenship)

to Spaniards and Gauls, would have rejected my client here asking for it ; (that Sulla) whom I saw at an assembly when a worthless poet from among the rabble had thrust a poem upon him, which he had composed (in the form of) an epigram about him of long and short lines alternately, immediately give orders for a reward to be paid to him (the author) out of that property which he was selling at the time, but on the condition, that he should not write anything for the future. Would not a man who considered the officiousness of a bad poet nevertheless deserving of some reward, have gladly discovered my client's genius and excellence and fecundity in writing? Again ; would he not either at his own request or through the Luculli have obtained the citizenship from Q. Metellus Pius, his own most intimate friend who presented many persons with the franchise? especially when he (Metellus) was to such a degree anxious that men should write of his exploits, that he lent his ears even to poets born at Corduba (whose poetry) would sound somewhat heavy and uncouth.

XI.—For this is not to be concealed which cannot be disguised, but rather we should openly display it. We are all attracted by the pursuit of praise, and all the best men are chiefly attracted by glory. Those philosophers themselves even, in the books which they write on the contempt of glory, prefix their own name : so in the very thing in which they despise advertisement and notoriety they like to be advertised themselves and to have their names used. Decimus Brutus indeed, that great man and (great) general, ornamented the approaches to his temples and monuments with the poems of Attius, his most intimate friend. And lately indeed, he who fought with the Ætolians with Ennius for his companion, (I mean) Fulvius, did not hesitate to dedicate to the muses the spoils of Mars. Wherefore, in a city in which generals, almost in arms, paid respect to the name of poets and the shrines of the muses, in that (city) jurymen in civil attire ought not to shrink from (ensuring) honour to the Muses and security to poets. And that you may do this the more willingly, I will now inform against myself to you, gentlemen of the jury, and will make confession to you of my own somewhat

love of fame, perhaps too eager, but nevertheless honourable. For the measures which I in my consulate carried out jointly with you for the safety of this city and empire, and for the lives of the citizens and for the general good of the country, (these) my client touched upon in verse and commenced to write about; and when I heard of this, I entreated him to finish it, because the subject seemed to me important and pleasing. For no merit wants any other reward for its labours and dangers beyond this one of praise and fame; and if this is withdrawn, gentlemen of the jury, what reason is there why, in this so short and so brief course of life, we should task ourselves in labours so arduous? Certainly if the mind had no anticipation of the future, and if it should bound all its own thoughts by the same limits as those by which the space of life is marked off, it would neither wear itself out by such great toils, nor torment itself with so many anxieties and sleepless nights, nor fight so often for life itself. As things are, there lurks in every best man a sort of noble instinct, which night and day stirs his mind with the stimulus of glory, and reminds him that the mention of our name is not to be given up with the end of life, but must be made co-existent with all future time.

XII.—Do we all indeed, who are engaged on public business, and in these dangers and labours of our life, appear to be of so small a mind as to think that, though till our very last moment we have not drawn a single tranquil and easy breath, all (we have done) will perish at the same time with ourselves? Have many very great men carefully left behind them statues and busts, copies not of their minds but of their bodies; and ought we not much rather to wish to leave behind us an image of our wisdom and virtue, (an image) moulded and finished by the greatest genius? I indeed used to think that whatever I was achieving, even then in achieving it I was scattering and sowing it into the eternal recollection of the world. And whether indeed this (memory) is to be absent from my sensation after death, or whether, as wisest men have thought, it will belong to some part of myself, at all events at present I find delight in some such thought and hope.

Therefore support, gentlemen of the jury, a man of such honour, as you see testified for both by the rank and also by the long-standing of his friends, of genius also as great as that deserves to be esteemed, which you see to have been sought out by the genius of the greatest men, with a cause moreover such as is approved of by the favour conferred by the law, by the authority of a municipality, by the evidence of Lucullus, and by the registers of Metellus. And since this is so, I ask of you, gentlemen of the jury, if a certain not only human but also divine commendation ought to be (bestowed) on men of such genius, that you will receive the man who has always done honour to yourselves, your generals, and to the achievements of the Roman people, who moreover, to these recent domestic dangers of mine and of yours, undertakes that he will impart an eternal testimony of praise, and who is of the number of those who always among all people have been considered sacred and called so, that you will so receive him (I say) into your confidence, that he may seem to have been relieved by your good-feeling rather than outraged by your harshness. Whatever I have said on the facts of the case, gentlemen of the jury, as my custom is, briefly and simply, this I trust has been approved by all; all that I have said away from my practice and that of the law-courts, both about the genius of my client, and generally upon his special pursuit, this, gentlemen of the jury, I hope has been taken by you in good part; (that it has been) by him who presides at the trial I know full well.

CICERO PRO L. CORNELIO BALBO ORATIO.

(TRANSLATED FROM THE TEXT PUBLISHED IN THE PITT
PRESS SERIES)

I.—If the influence of advocates is of weight in trials, the cause of L. Cornelius has been defended by most distinguished (advocates); if their experience (is of weight, it has been defended) by most skilful; if their ability, by most eloquent; if their zeal, by most friendly ones, and by those connected with L. Cornelius, both by (mutual) kindnesses, and by the greatest intimacy. What then is my part? (That) of just so much influence, as you (the Roman people) have been pleased should exist in me, (that) of moderate experience, (that) of ability by no means equal to my goodwill. For to the others by whom he is defended, I see that the defendant is greatly indebted; how much I am indebted to him (I will explain) at another time; only at the outset of my speech I assert this, that if I have been too little able to requite all, who have been friends to my safety and my honour, by repaying the favour, at any rate I shall requite them by proclaiming and acknowledging it. How great was yesterday the impressiveness of Cn. Pompeius in speaking, how great his fluency, how great the abundance (of his eloquence), seemed to be made evident, not by the silent opinion of your minds, but by your manifest admiration. For I have never heard anything which seemed to me to be spoken more acutely on a point of law, anything

with a greater memory for precedents, anything more skillfully concerning treaties, anything with more dazzling authority concerning (our) wars, anything more impressively concerning affairs of state, anything more temperately concerning (the speaker) himself, anything more eloquently concerning the facts and the charge ; so that to me now that seems to be true, which some persons, devoted to literature and philosophical pursuits, used to be thought (when saying) to be saying, as it were, something paradoxical, that to the man who had thoroughly grasped all virtues in his mind, all he did turned out correctly. For what greater richness, diversity, and fulness (of eloquence) could have been (displayed) in L. Crassus, a man born to (exhibit) an almost unique facility in speaking, if he were conducting this case, than has been (displayed) in him who has been able to devote to this pursuit only so much time as he has rested from continuous wars and victories, from his childhood up to his present age ? On which account to me this last position of summing up the case is the more difficult. For I am following a speech, which has not (merely) been carried past your ears, but has settled so firmly into the minds of all, that you are able to derive more pleasure from the recollection of that speech, than (you can) from a speech, not only of mine, but of any (orator) whatever.

II.—But I must pay some deference not only to Cornelius (Balbus), to whose wish I in his (hour of) danger can by no means prove wanting, but also to Cn. Pompeius, who has wished me to be both the publisher and defender of his line of action, of his judgment, of his patronage, just as before you, gentlemen of the jury, I lately was in another case. Now to me indeed this seems worthy of the republic, this to be due to the unequalled reputation of this distinguished man, this to be an essential (to the performance) of your duty, this to be a sufficient plea, that what it is evident that Cn. Pompeius did, that all should allow he had legal power to do. For nothing is truer than what yesterday the great man himself (Pompeius) said ; that L. Cornelius was fighting for all his fortunes (in such a way) that he was not called to (meet) a charge of any offence. For he is not said to have stolen the franchise, (he is) not

(said) to have falsely represented his family, not to have skulked behind some shameless lie, not to have crept unobserved upon the census-roll; one thing only is brought against him, that he was born at Gades, and this no one denies. All other things the accuser owns, that the defendant was with Q. Metellus in Spain during a most severe war, with C. Memmius both in the fleet and in the army (on sea and land); that (from the time when) Pompeius came into Spain and began to have Memmius as his quaestor, he never was absent from Memmius, that he was besieged in Karthage, was present at those very sharp battles and very great (ones too) of the Sucro and the Turia, and was with Pompeius to the end of the war. Such are the special qualities of Cornelius: affection for our republic, labour and industry, pluck and valour worthy of the greatest commander, an expectation of reward in proportion to his dangers. Rewards indeed themselves depend not on the act of him who has obtained them, but on (the act) of him who has bestowed them.

III.—Therefore he (Balbus) was presented for these reasons by Cn. Pompeius with the franchise. That the prosecutor does not deny, but he censures it, so that in the case of Cornelius (Balbus) the plea of (Cornelius) himself is admitted (and yet) a punishment is demanded; in the case of Pompeius the plea is slighted, (yet) there is no penalty except (loss) of reputation. So (the prosecutors) wish the fortunes of a most innocent man (and) the act of an unequalled general to be condemned. Therefore in a court of justice the status of Cornelius, and the action of Pompeius is called in question. For you allow that my client, in that state in which he was born, was born in a most honourable station, and from an early age left all he had, and served in our wars with our generals; that he was absent from no toil, no siege, no battle. All these things are both full of merit and (constitute) the peculiar claims of Cornelius, nor in them is there any (foundation for a) charge. Where then lies the (foundation for a) charge? (In this), that Pompeius presented him with the franchise, Is that a (foundation for a) charge against the defendant? By no means, unless distinction is to be regarded as dis-

grace. Whom does it touch then? In reality no one: (but) by the pleading of the prosecutor (it touches) him alone who was the donor; who if led by interest he had conferred the reward on an improper person, nay even if on a good man, but one who had not so deserved (it); if in short something were alleged to have been done not contrary to law, but contrary to propriety, nevertheless all censure of that kind ought to be rejected by you, gentlemen of the jury. But now what is alleged? What does the prosecutor say? (Why) that Pompeius has done what it was not lawful for him to do: which is more serious than if he were saying that something had been done by him, which was improper; for there are some things which are improper, even if they are lawful; but whatever is not lawful, (that) certainly is improper.

IV.—On this point now can I have any hesitation? For what is wanting to this gentleman, which if it were present, we should believe that such (privileges) are of right allowed and granted him? Is it experience in (military) affairs? (A man) who had the last days of boyhood as the commencement of most important wars and commands? Whose contemporaries most of them have seen a camp less often than he has triumphed? (A man) who counts as many triumphs as there are regions and quarters of the world, as many victories in war as there are in the nature of things kinds of war? Is it ability? (A man) to whom even chances themselves and the issues of transactions were not the guides, but the companions of his counsels? (A man) in whose case alone extreme good fortune has so vied with extreme excellence, that in the opinion of all more was to be ascribed to the man than to the goddess? Or was modesty, or uprightness, or conscientiousness in him, or diligence ever looked for in vain? Whom have our provinces, whom (have) free peoples, whom (have) kings, whom (have) the remotest nations not only seen more pure, more moderate, more righteous, but have ever in hoping or wishing conceived? And what shall I say of his influence? Which is as great, as with such great virtues and merits it deserves to be. (A man) on whom the Roman Senate and people has bestowed rewards of the highest dignity for

which he never asked, and commands indeed even in spite of his protests, that concerning such a man's action, gentlemen of the jury, an enquiry should so be made, that the question at issue is, whether it was lawful for him to do what he did, or (whether) forsooth, I will not say it was illegal, but (whether) it was impious;—for he is said to have done it in contravention of a treaty, that is against the religion and honour of the Roman people—is not this a disgrace to the Roman people, is it not (a disgrace) to you?

V.—I heard the following (story) from my father when a boy: when Q. Metellus son of Lucius was pleading his case on a charge of misappropriation of public money, that great man, to whom the security of his fatherland was dearer than the sight, and who preferred to depart from his city rather than from his opinion,—while he therefore was pleading his case, and when his accounts were being handed round for the purpose of inspecting some entry, there was found out of those Roman knights, all most excellent men, not one jurymen who did not avert his eyes and wholly turn himself away, lest haply, anyone should seem to have doubted, whether what he (Metellus) had entered in the public accounts was true or false: and are we to sit in judgment on a decree of Cn. Pompeius published in accordance with the opinion of his advisers? Are we to compare it with laws, with treaties? Are we to weigh everything with the harshest minuteness? They say that at Athens, when a certain citizen among them, who had lived piously and soberly, had given evidence in court, and, as the Greek custom is, was approaching the altar for the purpose of taking the oath, with one voice all the jurors cried out that he was not to take the oath. (So) Greeks were unwilling that the good faith of a well-proved man should seem to be bound by a religious observance rather than by truthfulness; shall we doubt what sort of man Cn. Pompeius has been even in preserving a religious observance both of laws and treaties? For whether will you have it that he wilfully acted against the treaty or unwittingly? If wilfully—alas for the glory of our empire! Alas for the surpassing dignity of the Roman people! Alas for the fame of Cn. Pompeius, so far and widely spread, that the

home of his renown is only bounded by the limits of our common empire ! Alas for the nations cities and peoples, kings tetrarchs and tyrants, witnesses not only to the valour of Cn. Pompeius in war, but also to his conscientiousness in peace ! You lastly, ye voiceless tracts, I implore, and ye soils of lands most remote ; you too, seas and harbours, islands and shores ! For what shore is there, what settlement, what spot in which there remain not traces imprinted both of this hero's courage and culture, both of his mind and prudence ? That this man endued with an almost incredible and unheard-of dignity virtue and constancy, wilfully neglected violated broke treaties, will anyone dare to affirm ?

VI.—The prosecutor by a gesture freely yields (this point) to me : he intimates that Cn. Pompeius did it unwittingly. As if indeed it were a lighter charge, when you are engaged on such important public business, and presiding over affairs the most weighty, to do something which you know is not legal, than to be utterly ignorant what is legal. For which (do you think is true that) he who in Spain had conducted a very fierce and extensive war, was ignorant under what legal rights the Gaditane community was, or when he knew the legal rights of that population, he did not grasp the construction to be put on the treaty ? Therefore will anyone dare to say this, that Cn. Pompeius was ignorant of what ordinary men, what (men) possessed of no experience, no military taste, what in short mere clerks profess to know ? I indeed on the contrary think, gentlemen of the jury, that while in every kind and variety of accomplishments, even of those, which without considerable leisure are not easily learnt, Cn. Pompeius excels, that a certain extraordinary merit of his is his unequalled acquaintance with treaties conventions and terms made with peoples kings and foreign nations, and in fact with the whole legal rights of war and peace ; unless perchance (you would assume) that those things which books teach us in our house and at our leisure, the same neither literature when he rested, nor the countries themselves when he was on service, were able to teach Cn. Pompeius. And (now), as I think, gentlemen of the jury, the case is pleaded. I now shall say a few

more things more from regard to the vices of the times than the nature of the trial ; for this is a certain plague spot and taint of the age, to envy virtue, and to wish to crush the very flower itself of dignity. For if Cn. Pompeius had lived five hundred years ago, (and if) that hero, from whom when a mere youth and a Roman knight the senate had often sought help for the common safety, and whose exploits had traversed all countries with most glorious success by land and by sea, whose three triumphs had been witnesses that the whole world was subject to our sway, whom the Roman people had distinguished with unheard-of and extraordinary honours ; if now in our time what such a man had done, were to be pronounced to have been done in contravention of a treaty, who would listen ? Surely no one. For death would have extinguished envy, (while) his exploits would glitter with the glory of eternal fame. Therefore (since) his excellence (if merely) heard of would not afford room for doubt, shall the same man's when seen and manifest be injured by the voice of detractors ?

VII.—Therefore I will pass over Pompeius now in the rest of my speech, but do you, gentlemen of the jury, retain (him) in your minds and memories. Concerning the law, the treaty, the precedents, the unbroken usage of our state I will recall those things which have been said (already). For nothing new, nothing untouched have either M. Crassus, who has most accurately explained to you the whole case, both in accordance with his usual eloquence and fidelity, or Cn. Pompeius, whose speech abounded in every possible ornament (of oratory), left me to say. But since, though I drew back, it has pleased both that this as it were final labour of putting the last touch to their work should be undertaken by me, I ask of you that you will think that I have taken on myself this task and office, from a desire rather of duty than of making a speech. And before I approach the point of law and the case of Cornelius, it seems to me that something ought to be said briefly about the common condition of us all, for the sake of disarming malice. If, in whatever station each one of us, gentlemen of the jury, is born, or in whatever circumstances he has been placed at birth, this same position in life he were bound to

maintain until old age, and if all, whom either fortune has raised or their own labour and industry has made illustrious, were to be visited with punishment, (such) a law and condition of life would not seem to press more harshly on L. Cornelius than on many gentlemen good and brave; but if the worth, ability, and culture of many men (starting) from the lowest descent and stage of fortune, has procured them not only friendship and abundance of property, but the highest distinctions, honours, renown, and eminence, I do not understand why jealousy should seem likely to outrage the virtue of L. Cornelius, rather than your love of justice should seem likely to assist his modesty. Therefore, a request which it is most important to make, from you for this reason I do not ask, gentlemen of the jury, that I may not seem to doubt concerning your wisdom and your good feeling—but I must beg that you will not take an aversion to ability, nor be the enemies of industry, that you will not think that culture should be trampled on, nor virtue punished—this also I do ask, that, if you see the case itself on its own merits to be strong and stable, you will prefer that the distinctions of the defendant himself should be a support to his case rather than an impediment.

VIII.—The case of Cornelius, gentlemen of the jury, arises out of that law, which L. Gellius and Cn. Cornelius after the approval of the Senate proposed: by which law we see it to have been thus enacted, that those be Roman citizens, whom Cn. Pompeius, after the approval of his advisers, shall have presented individually with the franchise. That L. Cornelius was (so) presented, Pompeius who is present affirms, the public registers testify, the prosecutor allows; but he says that no member of a federate people was capable—unless that people had become bound (by the law)—to become a (Roman) citizen. O brilliant expounder of law, authority on points of antiquity, corrector and reformer of our state! One who ascribes this penalty to treaties, that it makes the parties to the treaty disqualified for all our prizes and favours. For what could be asserted more ignorantly than that federate peoples ought to become bound by our laws? For that is not more peculiar to federate than to all free (peoples). But this whole (prac-

tice), gentlemen of the jury, was based always on **this** principle and intention, that, when the Roman people had commanded anything, if the allies and Latins had adopted it, and if that law, which we ourselves used, that same had settled among some people as it were on solid ground,—that then that people should be bound by the same law, not so that anything should be detracted from our law, but so that those peoples should enjoy either that legal principle which was laid down by us, or some advantage or favour. In the time of our ancestors C. Furius proposed a law relating to testaments, Q. Voconius proposed one relating to the inheritances of women; countless other statutes were passed about civil law; those which the Latins chose (to adopt) they adopted; lastly, by the Lex Julia itself, by which law the franchise was given to the allies and the Latins, those peoples which did not become bound, were not to have the franchise. At which there was a great contention among the people of Heracia and among the Neapolitans, since a large number in those states preferred the liberty of their own treaty to the franchise. Finally this is the force of that legal principle and expression, that peoples become bound by our kindness and not by their own right. When the Roman people has issued any command, this if it is of such sort that it may seem that permission should be given to certain peoples, whether federate or free, to decide themselves, not about our, but their own affairs, which legal principle they wish to adopt, then it seems necessary to enquire whether they have become bound or not; but (in a matter) concerning our own constitution, our own empire, our own wars, concerning victory, and (our own) security, our ancestors were unwilling that peoples should bind themselves.

IX.—But if it shall not be lawful for our generals, for the Senate, for the Roman people, by rewards held forth to attract from the states of our allies and friends all the bravest and best (men) to undergo dangers in behalf of our welfare, we shall be deprived of (what would often be of) the highest use and the greatest safeguard in perilous and stormy times. But, by the immortal gods, what kind of alliance, friendship, and treaty, is that according to which

either our state can afford to be deprived in its dangers of a Massiliot, a Gaditane, or a Saguntine defender, or, if any member of those peoples has arisen who has assisted our leaders by the help of his exertions, and their communications by his personal danger, who with our enemies hand to hand in line of battle has often fought, who has often exposed himself to the darts of the enemy, to a struggle for life, to death, (yet) on no terms whatsoever can he be rewarded with the prize of this (Roman) citizenship? For it is a serious matter for the Roman people, not to be able to employ allies who are gifted with eminent virtue, and who are willing to share our dangers as their own; but towards the allies themselves and towards those of whom we are treating, the federate peoples, it is unjust and insulting, that most faithful and attached allies should be shut out from those prizes and those distinctions which are open to tributaries, are open to enemies, are open often to slaves. For we see many tributaries from Africa, Sicily, Sardinia, (and) other provinces presented with the franchise, and (men) who, though enemies, had deserted to our generals and had been of great use to our republic, we know to have been presented with citizenship; lastly slaves, whose rights fortune and condition is the very lowest, because they had deserved well of the republic, we used to see very often publicly presented with liberty, that is with citizenship.

X.—Do you then, O patron of treaties and treaty bound (peoples) impose this condition on the Gaditanes, your fellow-citizens, that, what to those, whom through the arms of (Pompeius) Magnus, your (fellow-townsmen) aiding, we vanquished and reduced under our sway, is allowed, that if the Roman people has permitted, they may be presented with citizenship by the Senate, and even by our commanders, yet (that same privilege) shall not be allowed (the Gaditanes) themselves? If they by their decrees or laws had enacted, that no one of their citizens should enter the camp of the generals of the Roman people, that no one in behalf of our empire should thrust himself into peril of his person, and into danger of his life; that it should be allowed us to employ auxiliaries of Gaditanes when we pleased, but that

no private man, though excelling in ^{his} courage and valour, should fight in behalf of our empire at his own hazard, we should rightly be indignant (to think) that the auxiliaries of the Roman people were being diminished, the spirit of bravest men weakened, and that we ourselves were deprived of the zeal and hereditary virtue of men of foreign birth. And yet it makes no difference, gentlemen of the jury, whether the federate states establish these rules, that no one be permitted from those communities to meet the dangers of our wars, or (whether) those (benefits) which we confer on their citizens on account of bravery, cannot possibly be ratified; for we could none the more employ these men as allies, if rewards for valour were abolished, than if it were absolutely not lawful for them to engage in our wars. For since (even) in behalf of their own country few since the birth of the human race have been found to expose their lives to the darts of an enemy with no reward in prospect, do you think that in behalf of another state there will be a single man who will expose himself to danger, not only with no reward in prospect, but even (all reward) forbidden?

XI.—But while on the one hand that was most ignorantly asserted about peoples becoming bound, (a proceeding) which is common to free peoples, (and is) not peculiar to federate states—from which it must necessarily be understood either that no one from among the allies can become a (Roman) citizen, or (else) that it is possible also for (a member) of a federate state,—so on the other hand, this instructor of ours is ignorant of the whole law regarding change of franchise, which depends, gentlemen of the jury, not only on public enactments, but also on the will of individuals. For by our own law neither can anyone be removed from the community against his will, nor if he should wish it, can he be prevented from removing, provided only he is adopted by that state, to whose burgers' roll he may wish to belong: as (for instance), if the Gaditanes shall have passed a decree expressly concerning any Roman citizen that he should become a citizen of Gades, there should be a complete power to such citizen of ours of changing his state, nor would he be hindered by a treaty from having the power to become a citizen of Rome.

By the civil law no citizen of ours can belong to two states: he who has dedicated himself to another state cannot be (a member) of this state; and not only by dedication—which we see to have happened in misfortune to most distinguished men, (like) Q. Maximus, C. Laenas, Q. Philippus at Nuceria, C. Cato at Tarraco, Q. Caepio, and P. Rutilius at Smyrna, so that they became citizens of those states, though they had not been able to lose this (franchise) before they had changed their country by a change of state; but also by right of subsequent return a change of state can take place. For it was not without reason that (a proposal) was brought before the people about Cn. Publicius Menander, a freedman, whom in the time of our ancestors our envoys, when starting for Greece, wished to have with them as interpreter (to the effect) that this Publicius, if he returned home and thence returned to Rome (again) should nevertheless (still) be a (Roman) citizen. Many Roman citizens also in the history of earlier times, of their own free wish, uncondemned and (with their honour) safe, have left this state and betaken themselves to other states.

XII.—But if it is allowed a Roman citizen to become a Gaditane, whether by exile or by right of subsequent return or by resignation of our franchise—to come now to the treaty, which (however) has nothing to do with the question, for we are arguing on the law of citizenship, not on treaties—what reason is there why it should not be allowed a citizen of Gades to become a member of our state? I, for my part, think quite the contrary; for while out of all communities there is a way into our own, and while for our citizens a road lies open to other communities, so also in proportion as each (state) is very closely connected with us in respect of alliance, friendship, engagement, convention, or treaty, so it seems to me in the highest degree to be bound (to us) in respect of an interchange of good offices, rewards, and (rights) of citizenship. But all the other states would not hesitate to receive men from us to their burgess rolls, if we had the same law as the rest; but we (Romans) cannot belong both to this state and also to any other whatever, while to other people this is allowed.

Accordingly in the Greek states we see, that at Athens the Rhodians and Lacedæmonians, and everywhere members of other states are admitted, and that the same individuals are (members) of many states. And I myself have seen some ignorant men, citizens of ours, led by this error (enrolled) at Athens among the number of the jurors and the Areopagites, with a specified tribe and letter, since they were ignorant that if they acquired that franchise, they had lost this, unless they had recovered it by right of subsequent return. But no man experienced in our custom and law, who wished to retain this franchise, has ever formally entered himself on another burgess-roll.

XIII.—But this whole drift of my argument and speech, gentlemen of the jury, refers to the general right of changing state : it has nothing in it which is the peculiar feature of sacred engagements and treaties. For I am maintaining the universal principle : that there is no nation in any quarter of the world either so at variance with the Roman people by some hatred and schism, or so attached (to us) by loyalty and good-will, from which we are forbidden, to be able to adopt any man as citizen or present him with the franchise. O admirable laws and divinely procured even at the very outset of the Roman name by our ancestors ! (To think) that no one of us can belong to more than one state—for it is inevitable that difference of state must involve a distinction of legal system—that no one against his will shall be removed from the franchise-roll, or remain upon the franchise-roll against his will. For these are the strongest foundations of our freedom that every man is the master of retaining or resigning his legal status. That however without any doubt (which) has most chiefly established our empire and increased the renown of the Roman people, (was the principle) which Romulus, that original founder of this city, taught by his treaty with the Sabines, that even by the admission of enemies this state ought to be enlarged ; and, through his authority and example, the giving away and sharing the franchise has never been discontinued by our ancestors. Accordingly both from Latium many, as the Tusculans and the Lanuvines, and out of the other races whole com-

munities were admitted to the franchise, as, for instance, (those) of the Sabines, Volscians, and Hernicans; and of these states they would not have been compelled to be transferred from their citizenship if they were unwilling, nor, if any had acquired our franchise by the favour of the Roman people, would the treaty with them appear to have been violated.

XIV.—But (you say) some treaties exist, as those with the Cenomani, the Insubii, the Helvetii, and the Iapides, with several also of the barbarian tribes of Gaul, in whose treaties there is a saving clause that no one of them be admitted a citizen by us. But if the saving clause causes it to be unlawful, where no such clause occurs there it must be lawful. Where then in the treaty with Gades has there been inserted a saving clause, that the Roman people are not to admit any Gaditane into the citizenship? Nowhere. And if there had been, the law of Gellius and Cornelius, which had explicitly given the power to Pompeius of presenting the franchise, would have annulled it. (But) says (the prosecutor), the treaty is specially excepted (by the words) “If there is anything *sacro sanct*.” I forgive you if you neither are familiar with the laws of the Pœni—for you had left your city (at the time) and you had not the chance to look into our statutes: for they themselves, by a public sentence, debarred you from knowing them. What (clause) was there in that measure, which was proposed concerning Pompeius by the consuls Gellius and Lentulus, wherein anything *sacro sanct* seemed exempted? For, in the first place, nothing can be *sacro sanct* except what the people or the tribes have sanctioned; in the second, penal clauses are to be considered *sacro sanct*, either by the nature itself of the punishment, or when, by the invocation and denunciation of a law, the life of him who shall have transgressed them is forfeited. What then have you to allege of this character concerning the treaty with Gades? Whether by denunciation of death or by invocation of a law can you prove (the treaty) to be *sacro sanct*? I affirm, that nothing whatever relating to that treaty has ever been brought before the people, nothing before the tribes; and (of those) concerning whom even if it had been enacted

that we were not to admit any (of their number) as citizen, yet that would have been valid which afterwards the people had ordered, and nothing would be held to have been excepted by those (well-known) words, "If anything is sacro sanct," touching that same people, when the Roman people never passed any resolution at all, do you dare to say that anything was made sacro sanct. ?

XV.—Nor, indeed, does this my speech, gentlemen of the jury, tend to unsettle the treaty with the Gaditanes. For it is not my place to speak against the rights of a most highly deserving state, against the judgment of antiquity and against the authority of the senate. For formerly, in the hard times of our Republic, when, immensely powerful by land and sea, Karthage, relying on the two Spains, was threatening this empire, and when two lights of our empire, Cn. and P. Scipio, had suddenly been extinguished by death, L. Marcius, centurion of the first division, is said to have concluded a treaty with the Gaditanes. But since this (treaty) was observed rather on account of the loyalty of that people, and of our justice, and in short more by its own antiquity than by any public bond of religion, learned men and (men) skilled in state law, citizens of Gades, made a request of the senate with regard to the treaty, during the consulship of M. Lepidus and Quintus Catulus. Thereupon the treaty with the Gaditanes was either renewed or concluded, concerning which treaty the Roman people passed no resolution, since, without its own consent, it can in no way be held bound by a sacred obligation. And so the state of Gades obtained what it could gain by its own services towards our government, what (it could gain) by the witness of commanders, what (it could gain) by prescription, what by the influence of Q. Catulus, an eminent man, by the opinion of the senate, and by its treaty; (but as for anything) which might have been made sacred by some public religious ceremony, that is wanting; for the people never bound itself (by such). Nor on that account, is the case of the Gaditanes any the weaker; for it is supported by very weighty and very many considerations. But for your argument here at any rate there is no room; for nothing can be sacro

sanct. except what has been sanctioned through the people at large or the tribes.

XVI.—But if this treaty, which the Roman people by the advice of the senate, by the approval and verdict of antiquity, by inclination, and by its own opinions, ratifies, (if) the same had been ratified with their votes, what reason was there why, by the actual treaty itself, it should not be lawful for a Gaditane to be admitted to our franchise? For there is nothing else in the treaty except that “there shall be a solemn and everlasting peace.” What has that to do with the franchise? That also is added which is not (found) in all treaties: “Let them maintain liberally the majesty of the Roman people.” Has that this force: that that (people) should be on a worse footing as regards the treaty? In the first place, this form of phrase—“let them help to maintain,” (a form) which we are wont to employ more frequently in laws than in treaties, is (the phrase) of one commanding, not of one requesting. In the second place, when the majesty of one people is ordered to be maintained, while about the other no mention is made, surely the former people is placed (thereby) on a higher footing and (higher) position whose majesty is protected by the penalties of the treaty. In which manner the interpretation of the prosecutor was undeserving of reply who said thus, that “liberally” was (really) “mutually,” just as if indeed some ancient or unfamiliar word were being translated. Men are said to be liberal (when they are) affable, kindly, and pleasant: “He who liberally shows the way to one wandering (does it) kindly, not grudgingly”; (the sense of) mutually indeed certainly does not agree (with the subject). And at the same time the thing is absurd that provision should be made in the treaty that they should mutually maintain the majesty of the Roman people, that is, that the Roman people shall wish its own majesty to be secure. But if now this were to be the case, as it cannot be, yet provision would be made for our majesty, and not at all for theirs. Can then our majesty be liberally maintained by the Gaditanes if we are not allowed by rewards to attract Gaditanes to support it? Can there in short be any majesty at all, if we are prevented from conferring on

our generals, through the Roman people, the power of distributing favours on account of virtue?

XVII.—But why do I argue about (things) which, if the Gaditanes were speaking against me, might then seem to be able to be spoken with truth? For to them demanding back L. Cornelius I should answer that the Roman people had passed a law concerning giving the franchise; that it is not customary for people to become bound to this kind of laws; that Cn. Pompeius, in accordance with the opinion of his council gave the franchise to the defendant; that the Gaditanes can point to no command of our nation, and therefore there is nothing *sacro sanct.*, which might seem to be exempted by the law; that, if there were, yet in the treaty nothing is provided for except peace; that there is added even this, that they were under an obligation to maintain our majesty, which certainly would be impaired if either it were not allowed us to make use of their citizens as assistants in our wars, or if we had no power of conferring a reward (on them). But now why should I speak against the Gaditanes, when that which I defend is approved by their sympathy, their authority, by a deputation itself? (They are a nation) who turned away their affections from the source of their race and of their commonwealth, that is to say, from all zeal and sympathy for the Poeni, towards our empire and name; who, when tremendous wars were being waged against us, shut them out from their walls, pursued them with their fleets, and repelled them with their persons, riches, and resources; who thought that ancient semblance of a treaty made by Marcius always more sacred than any citadel, and considered that both by this treaty of Catulus and by the expressed opinion of the senate they were most closely connected with us; whose walls shrines and fields, just as Hercules himself (wished they should be) of his travels and his toil, so our ancestors wished to be the boundaries of our empire and of the name of the Roman people. They call as witnesses both our deceased commanders, whose memory and renown lives immortal, the Scipios, Bruti, Flacci, Crassi, Metelli, and also this Cn. Pompeius, who is present, whom, while waging far from their walls a fierce and great

war, they aided with supplies and money, and, at this present time, (they call to witness) the Roman people, whom in a scarcity of provisions, as they had often done before, they have relieved by a supply of corn; that they wish this rule to stand, that for themselves and their children, if any there be of shining virtues, there may be a place in our camps, in our generals' tents, in short, among the standards and in the line of battle, that there may be by these steps an ascent even to the citizenship.

XVIII.—But if it be lawful to Africans, Sardinians, Spaniards, mulcted (as they are) in territory and tribute, by their virtue to acquire the franchise, while to the Gaditanes, connected (with us) by (mutual) services, by tradition, by loyalty, by (common) dangers, and by treaty, this same (privilege) shall not be allowed, they will think, not that they have a treaty with us, but that (most unfair) laws have been imposed (on them) by us. And that this assertion, gentlemen of the jury, is not feigned by me, but that I am saying what the Gaditanes have decided, the fact itself declares. I say that many years before this time, the Gaditanes publicly contracted a guest-friendship with L. Cornelius: I will produce the token; I call the deputation; you see that most eminent and noble men have been sent to this trial to testify to his character and intercede for him in his danger; lastly, when some time before (the trial) the affair was heard of at Gades, lest perchance, any danger should be thrust on him by the prosecutor, the Gaditanes gave vent to the strongest expressions of abuse against that man their own fellow-citizen before the senate. Could the Gaditane people have better bound themselves, since you so greatly delight in this phrase, if then it binds itself, when it approves our decrees and orders by its own opinion, than when it contracted a guest-friendship (with him), in such wise that he confessed he had changed his city, and adjudged him fully worthy of the honour of this franchise? Could it more decidedly interpose an expression of its feeling, than when it disgraced even the accuser of my client by fine and punishment? Could it more clearly have given a decision on the case than when it deputed to your court its most distinguished citizens as witnesses of the

legal status of the defendant, to testify to his character, and to intercede for him in his danger. For who is so mad as not to feel that this privilege must be retained by the Gaditanes, lest the road to this most honourable reward of the franchise be shut against them for ever, and that they ought greatly to rejoice that the good will of this L. Cornelius towards his countrymen remains at Gades, while his influence and power of serving them is exercised in this state? For who is there of us to whom that state is not the more recommended by his devotion care and diligence?

XIX.—I do not mention with what great honour C. Cæsar, when he was prætor in Spain, treated that people, (how) he appeased their dissensions, settled laws with their own consent, obliterated from the usages and institutions of the Gaditanes the barbarism previously of long standing, and displayed the deepest interest and favour, at the request of the defendant, towards that state. I omit many (advantages), which they daily attain either solely or at all events the easier on account of the defendant's efforts and zeal. And therefore the chief men of the city are in attendance and protect him by their attachment to him as their fellow-citizen, by their evidence as (a citizen of) ours, by their dutifulness as (one who) from having been a most noble citizen, (is now) a most revered guest-friend, by their earnestness as a most attentive defender of their interests. And lest the Gaditanes themselves should imagine that, although they suffer no disadvantage, if it be allowed that their citizens in recompense for virtue should become members of our state, yet by this very fact their treaty is less favourable than (those) of others, I will reassure both these who are present, excellent gentlemen, and that community most faithful and attached to us, at the same time also, I will remind you, gentlemen of the jury, though you are well aware of it, that the principle about which this court has been appointed, about that, never has any doubt at all been entertained. Whom then do we esteem the most sagacious expounder of treaties, whom most diligent in examining into the conditions and cases of communities? Those surely, who already have had the conduct of governments and wars.

XX.—For if Q. Scaevola, that famous augur, when he was consulted about the law relating to guarantees, a man very skilled in law, frequently used to refer his clients to Furius and Cascellius, dealers in landed estates, if I used to consult M. Tugio in preference to C. Aquilius in reference to my water-supply at Tusculum, because constant practice (when) devoted to one subject often proves superior to talent and skill, who can hesitate concerning treaties and concerning the whole law of peace and war to prefer our generals to all most experienced in law? Can I then mention with your approval C. Marius as authority for a precedent and for that course of action, which is blamed by you? Do you require anyone more weighty, more consistent, more eminent in virtue and wisdom, in conscientiousness and equity? Well, he presented with the franchise M. Annius Appius, a native of Iguvium, a very brave man, endowed with the highest virtue; he also (presented with the franchise) two whole cohorts of Camertes, when he knew that the Camertine (treaty) was of (all) treaties the most sacred and most equitable. Can then, gentlemen of the jury, L. Cornelius be condemned, unless the act of C. Marius is condemned (also)? Therefore let that hero stand forth a little while in your imagination, since he can not in reality, that you may behold him with your minds, whom now with your eyes you cannot (behold); let him say that he was not unskilled in treaties, not inexperienced in precedents, not ignorant of the law of war; that he (was) the pupil and the soldier of P. Africanus, that he was skilled in campaigns and in warlike legations; that he, if he had merely read of wars as great as he both waged and brought to a close, (or) if he had served under consuls as many times as he himself had been consul, could have thoroughly learnt and known all the laws of warfare; that he never doubted that he could be hindered by no treaty from advancing the public interest; that by him every bravest man out of a most closely allied and most friendly state had been selected; that neither in the treaty with Iguvium nor with the Camertes was a saving clause inserted to prevent the rewards of virtue being conferred on their citizens by the Roman people.

XXI.—Accordingly, when a few years after this gift of the franchise, a most jealous scrutiny concerning the burgess-roll had taken place in accordance with the Licinian and Mucian Law, was any one of them, who had belonged to a confederate state (and) had been presented with the franchise, called to trial? For T. Matrinus, a native of Spoletum, (was) the only one of those whom C. Marius had presented with the franchise, (who) was put on his defence, (a member) of a Latin colony especially stable and renowned. And when that eloquent man L. Antistius prosecuted him, he did not say that the Spoletine people had not become bound—for he saw that peoples were wont to become bound in matters which concerned their own rights, not which concerned ours—but since under the Apuleian Law, no colonies had been formed, by which law Saturninus with C. Marius (as consul) had carried that he should be able to make three Roman citizens in each colony, he said that this favour ought not to hold good, since the grounds for conferring it were removed. That accusation of yours has no point of resemblance, but yet so great influence was there in C. Marius, that not through L. Crassus, his kinsman, a man of wonderful eloquence, but himself by a few words defended and proved that case with the weight which belonged to him. For who would there be, gentlemen of the jury, who would wish that from our generals in war, in battle, and in (command of) the army, the selection of valour, from our allies and from our confederates (engaged) in defending our republic the hope of rewards should be snatched away? But if the countenance of C. Marius, if his voice, if that imperial fire in his eyes, if his recent triumphs, if his ready glance prevailed, now let the authority, the achievements, the memory, the undying name of that most brave and most famous man prevail. Let this be the difference between citizens (who are) popular and (those who are) brave, that the former while living may enjoy their riches, while of these even when dead—if any defender of this empire can die—the influence may live immortal.

XXII.—What? Did not Cn. Pompeius, the father,

after having performed the greatest achievements in the Italian war, present P. Cæsius, a Roman knight, and a good man, who is still alive, a native of Ravenna, (a member) of a federate state, with the franchise? Again? did not C. Marius (do the same for) two entire cohorts of Camertes? What? did not P. Crassus, that most distinguished man, (enfranchise) Alexas the Heraclote from that state with which a treaty almost unique is thought to have been concluded in the times of Pyrrhus, when C. Fabricius was consul? What? did not L. Sulla (enfranchise) Aristo the Massiliot? What? since we are speaking about Gaditanes, (did not) the same man (enfranchise) nine Gaditane slaves? Once more? did not Q. Metellus Pius, a man most scrupulous and of the highest piety and moderation, (enfranchise) Q. Fabius the Saguntine? Again, did not he who is present, and by whom those (points) which I now run over have been all most minutely worked out: M. Crassus, a man both eminent by his wisdom and prudence, and also even too sparing in the distribution of the franchise, enfranchise a citizen of Avenio, a member of a federate state? Do you here attempt to invalidate the liberality, or rather the judgment and conduct of Cn. Pompeius, who has done what he had heard that C. Marius had done; has done what P. Crassus, what L. Sulla, what Q. Metellus (had done), what in short he had seen his own father, an authority of his own household, do? Nor indeed did he do that in the case of Cornelius alone; for he also presented with the franchise Hasdrubal, a Gaditane, after that African war of his, and the Ovii of Messana, and certain Uticans, and the Fabii of Saguntum. For while they are worthy of other rewards who by their own toil and danger defend our republic, so assuredly they are most worthy to be presented with that franchise, in behalf of which they have encountered dangers and missiles. And would that those, wherever they may be, who are the defenders of this empire could come into this citizenship; and on the other hand, that the assailers of the commonwealth could be got rid of from the citizenship! For neither did that greatest of our poets intend that advice to be Hannibal's

more than common to every general: "He who shall strike the foe," says he, "shall be for me a Karthaginian whoever he shall be." To what state (a man) belongs that (men) hold now-a-days, and have always held of slight importance. And therefore they have adopted as citizens brave men from every quarter, and very often have preferred the valour of low-born men to the inactivity of nobility.

XXIII.—You have (now) the construction which is put upon the law and upon treaties by the greatest generals and most learned gentlemen, (and by) the most distinguished men. I will give you also (that) of the jurors who have presided over this investigation: I will give (that) of the whole Roman people: I will give the most conscientious and most wise opinion also of the senate. When the jurors were announcing and openly stating what they intended to decide under the Papian law concerning M. Cassius, when the Marnertines were claiming him back (as a citizen) the Marnertines abandoned the action, though taken up officially. Though many persons have been admitted to the franchise from free and federate peoples, no one ever has been impeached concerning the franchise, either because his people had not bound itself, or because his right of changing his state was hindered by a treaty. I will venture even to assert this, that never has anyone been condemned who it was admitted had been presented with the franchise by a general of ours. Learn now the opinion of the Roman people pronounced on many occasions and confirmed in the most important cases in very fact and by experience. Who does not know that a treaty was concluded with all the Latins when S. Cassius and Postumus Cominius were consuls? And this indeed we remember lately to have been graven and inscribed on a brazen column behind the rostra. How then was L. Cossinius the Tiburtine, the father of the present Roman knight, a most worthy and most distinguished gentleman, after T. Coelius was convicted; how was T. Coponius of the same state, also a citizen of the highest virtue and eminence—you know his grandsons T. and C. Coponius,—after C. Maso was convicted, (how is it he was) made a Roman citizen? Could an entrance to the franchise be opened by eloquence

and ability, and could it not by valour and virtue? or was it lawful for confederate states to acquire spoils from us, but not from our enemies? Or what they could gain by speaking, could they not attain that by fighting? Did our ancestors desire that for the prosecutor the rewards should be greater than for the warrior?

But if by the very harsh enactment of Servilius our leading men and most weighty citizens at the bidding of the people suffered this road to the franchise to lie open to the Latins—that is, to the confederates, and this right was not put a stop to by the Licinian and Mucian Law, especially when the nature itself of the prosecution, and its name, and a reward of that kind, which no one could earn except by the disgrace of a senator, could not be overpleasing either to a senator or to any respectable person, could it have been doubted that in a matter where the rewards of the law-courts had been ratified, in the same the decisions of generals held good? Are we, therefore, to think that the Latin peoples bound themselves either to the Servilian Law or to other measures by which the reward of the franchise was held out to men of Latin towns for some particular service? Learn now the opinion of the senate, which has always been ratified by the opinion of the people. The rites of Ceres, gentlemen of the jury, our ancestors have (always) wished to be performed with the strictest religious observance and ceremonial: and, since they were derived from Greece, they have been always conducted by Greek priestesses, and all the terms used are Greek. But though they used to select from Greece that (priestess) who should teach and perform that Greek worship, yet they wished that a citizen should perform rites in behalf of citizens, in order that she might pray to the immortal gods with the learning of a foreigner and an alien, (but) with the heart of a native and a citizen. These priestesses I see have been for the most part either Neapolitans or Velians, without doubt, (members of) confederate states. I pass by (instances) of older date; I say that first before the giving of the franchise to the people of Velia in accordance with the opinion of the senate, C. Valerius Flaccus, the urban prætor, expressly

proposed to the people with regard to Calliphana of Velia, that she should be made a citizen of Rome: do we then imagine either that the Velians bound themselves (by that act), or that that priestess was not made a Roman citizen, or that the treaty was violated both by the senate and people of Rome?

XXV.—I am aware, gentlemen of the jury, that in a case so manifest, and so little liable to doubt, both much more has been said, and (said) by many of great experience than the matter required. But this was done, not that we might prove to you a matter so clear by mere speaking, but that we might break the spirits of all who are malevolent, unjust, and envious; and that the accuser might inflame these, and that certain speeches of men who grieve over the prosperity of others might penetrate even to your ears, and overflow even to this very law court, therefore you saw these aspersions scattered about in every part of his speech with the greatest artfulness—both as to the fortune of L. Cornelius, which is not one to excite odium, and, how ever great it is, is of such kind as to seem acquired by care rather than acquired by rapacity; and as to his luxury, which was not stigmatised by any charge of profligacy, but by general abuse; then as to his *Tusculum* (villa), which (the prosecutor) remembered to have belonged to Q. Metellus and L. Crassus, but did not remember that Crassus bought it from a freed man, Solenicus Marcius, (and) that it came to Metellus out of the property of Vennonius Vendicius; at the same time he did not know this, that of estates there are no “families,” and that by sales they are wont often to pass to strangers, often to the basest born, (and) do not pass by the laws like wardships. It has been thrown in his teeth also that he gained access to the Clustumine tribe, which (privilege) he attained by the reward of the law about bribery with less unpopularity than those who by legal rewards obtain a praetor’s vote and the toga praetexta. And his adoption by Theophanes has been talked of, through which Cornelius gained nothing besides the inheritances of his own relations.

XXVI.—Although the feelings of those, who themselves envy Cornelius, it is not very difficult to soothe. They

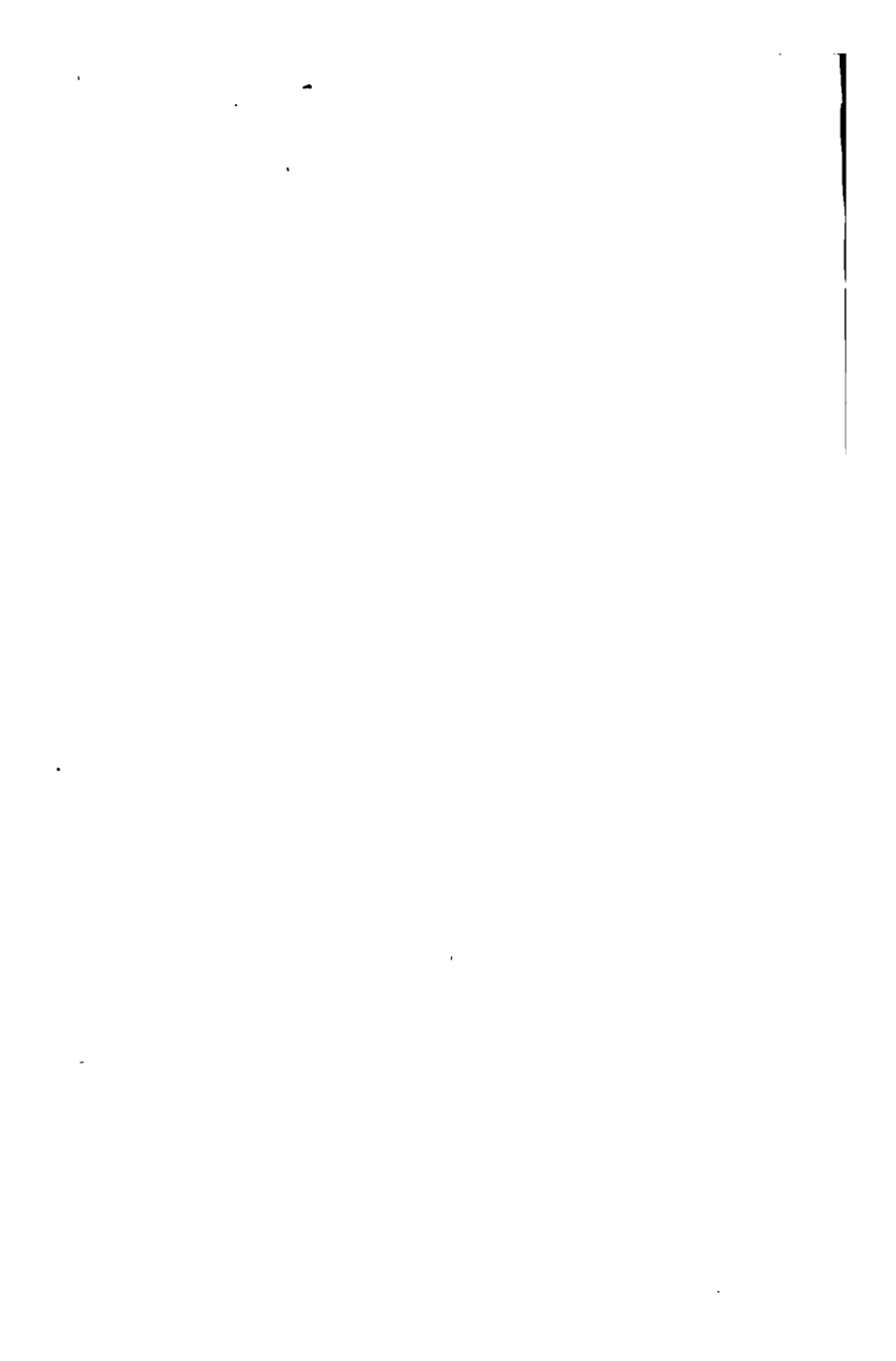
envy him as men will, (that is) they backbite him at their feasts, and pull him to pieces in their clubs: (but) they attack him not with that unfriendly, but with this abusive tooth. Those who are enemies to the friends of L. Cornelius, or who envy them, these are by him much more greatly to be feared. For to my client indeed himself who was ever found an enemy or who could have been with reason? What man of worth has he not cultivated? (Who is there) to whose fortune and rank he has not shewn deference? Living in the closest intimacy with a most powerful man, amidst our greatest misfortunes and dissensions he has never offended anyone of the opposite way of thinking or party, not by word, not by deed, not by look. This fate was either mine or that of the republic, that on me alone all the weight of that national crisis should rest. Not only did Cornelius not exult at my fate and for your dissensions, but with every kindness, with tears, with exertions, with consolations, he relieved all my friends in my absence. And, at their testimony and entreaty, I now repay to him this well-merited service; and, as I said at the beginning, a great and due gratitude; and I hope, gentlemen of the jury, that just as you love and hold dear those who have been the leaders in securing my welfare or my honour, so what has been done by my client in proportion to his opportunity, and in proportion to his position, is both pleasing to and approved by you. He is not hard pressed then by his own enemies, of whom he has none, but by (the enemies) of his friends, who are both numerous and powerful: whom indeed yesterday Cn. Pompeius in a full and impressive speech, desired to contend with himself, if they pleased, but called them away from this present unequal conflict and unjust contest.

XXVII.—And it was a fair condition, and to us, gentlemen of the jury, and to all who are entangled in our friendships, immensely advantageous, that we ourselves should carry on our enmities amongst ourselves, but should spare the friends of our enemies. And if my authority had sufficient weight with those men in this matter, since they see that I especially have been taught

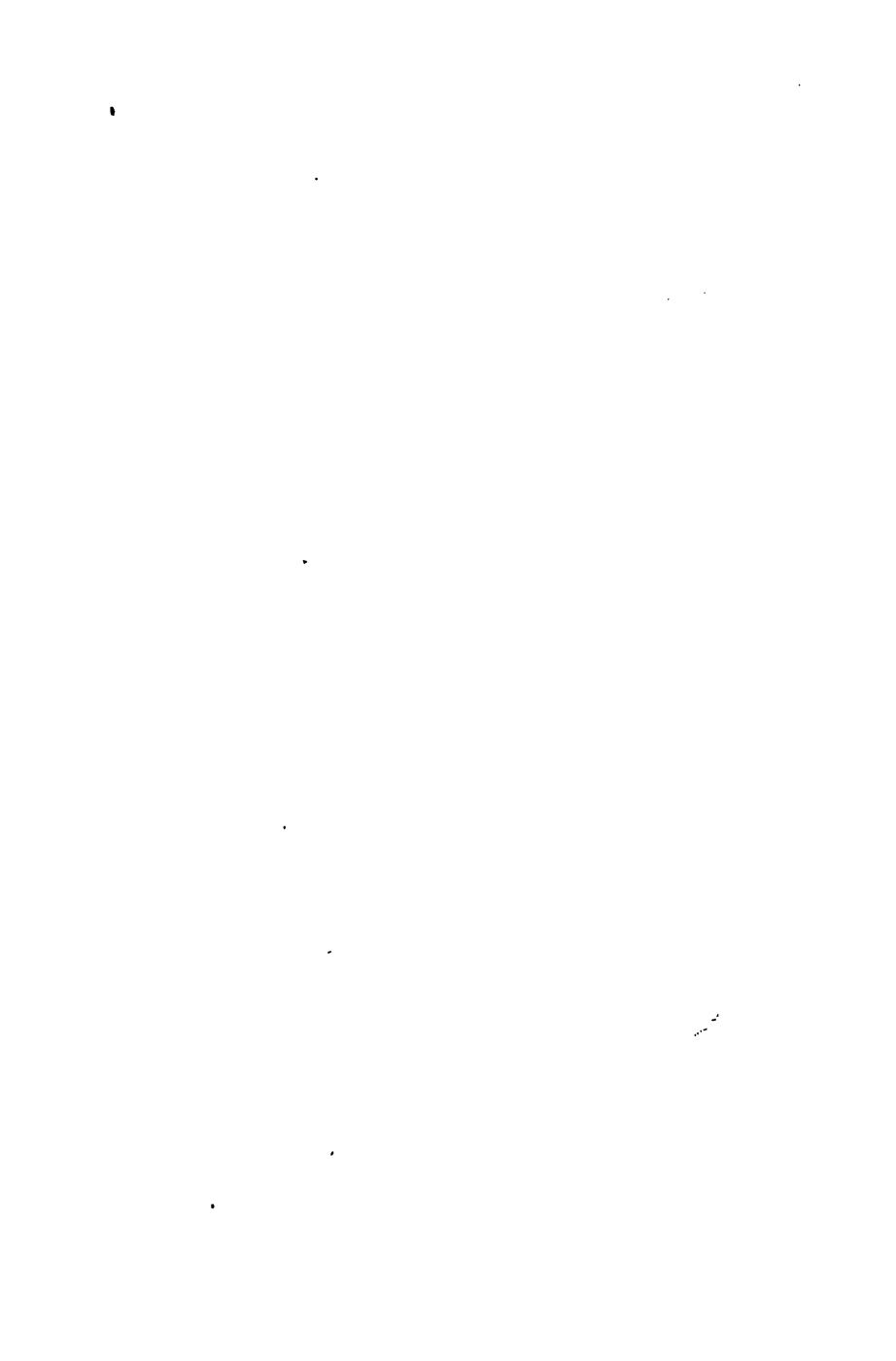
by changes of fortune and experience itself, I would even ask them to desist from those greater quarrels. For to contend about public matters when you are supporting that (cause) which you feel to be the best, I have always thought (to be the part) of strong and great men, nor have I ever been wanting to such a task, duty, or function. But contention is wise only so long as it either benefits in some measure, or, if it does not benefit, does not harm the state. We desired certain objects, we contended (for them), we tried to gain them: they have not been obtained. Some shewed disappointment: we (shewed) sorrow and distress. Why are we to prefer to root out rather than to preserve those things which we are not able to change? The senate distinguished C. Caesar with a most complimentary kind of thanksgivings, and by (making them last) an unprecedented number of days. The same body, though the treasury was in difficulties at the time, furnished his victorious army with pay, decreed ten lieutenants to the general, and did not vote that he should be superseded under (the provisions of) the Sempronian law. Of these resolutions I was the originator and advocate: nor did I think that I ought to adhere to my previous dissent, rather than to accommodate myself to the existing exigencies of the state and to (its need of) concord. To others it does not seem so. They are perhaps more consistent in their opinion. I am censuring no one, but I do not agree with all; neither do I think it inconsistent (to guide) my opinion like some vessel and to regulate its course according to the weather of the state. But if there are some to whom hate is never-ending (against those) against whom it has once been contracted, (a class of men) whom I see to be numerous, let them fight it out with the leaders themselves, not with their train and followers. For perhaps some will regard the former (course) as obstinacy, others (will deem it) virtue: but the latter all (will regard) as injustice combined with some cruelty. But if we can by no method, gentlemen of the jury, propitiate the minds of certain persons, your minds indeed certainly we are confident have been propitiated, not by my speech, but by your own good feeling.

XXVIII.—For what reason is there why his intimacy with Cæsar should not avail for the greatest praise to the defendant rather than for the slightest injury? (Cæsar) formed his acquaintance when a young man: he found favour with a man most discerning; amid a plentiful supply of friends he was placed on a level with the most intimate. In his prætorship, in his consulship, Cæsar mentioned for promotion his præfect of engineers; he approved the discretion of the man, welcomed his fidelity, loved his devotion and attention. My client was at different times his partner in many labours; perhaps now he is the sharer of some advantages. And if these things shall prove prejudicial to my client with you, I do not see what recommendation is likely to profit anyone with gentlemen like yourselves. But since C. Cæsar is very far away, and is now in those parts which by their situation mark the limits of the world, and by his exploits (mark the limits of) the empire of the Roman people, forbear, gentlemen of the jury, by the immortal gods, from wishing this bitter news to be brought to him, that he should hear that his præfect of engineers, that a man most dear and most intimate has been crushed by your votes, not for any fault of his own but because of his intimacy with him (Cæsar). Pity the man who is disputing, not about any offence of his own, but about the action of this great and distinguished hero, not about any particular accusation, but at his own personal risk, about the public right; and if Cn. Pompeius was ignorant of this right, if M. Crassus, if Q. Metellus, if Cn. Pompeius the father, L. Sulla, P. Crassus, C. Marius, the senate and the people of Rome, if those who have decided on similar cases, if the confederate peoples, the allies, and those ancient Latins, then see whether it is not more advantageous and honourable for you to err with them for guides than to be instructed by this teacher. But if you see that you have to decide about a privilege which is certain, clear, expedient, approved and settled by you, be not willing to act so as to record any fresh opinion about a practice so deeply rooted. At the same time place all these other (considerations), gentlemen of the jury, before your eyes: first that all those distinguished men, though now dead

who have presented the members of federate states with the franchise, are on their trial; next, the senate which has often decided in favour of this (act); the people who commanded it; the jurors who approved it. Then too consider this, that Cornelius so lives and has lived, that, although there are investigations for all kinds of offences, it is not for the punishment of his vices, but concerning the reward of his virtues, that he is now summoned before the court. Let this also be added, that you are determining by this trial, whether henceforth you would prefer that friendships with eminent men should be a misfortune to men or a recommendation. Lastly, keep that, gentlemen of the jury, fixed in your minds, that you in this case are not about to decide about any misdeed of L. Cornelius, but about a favour (conferred) by Cn. Pompeius.



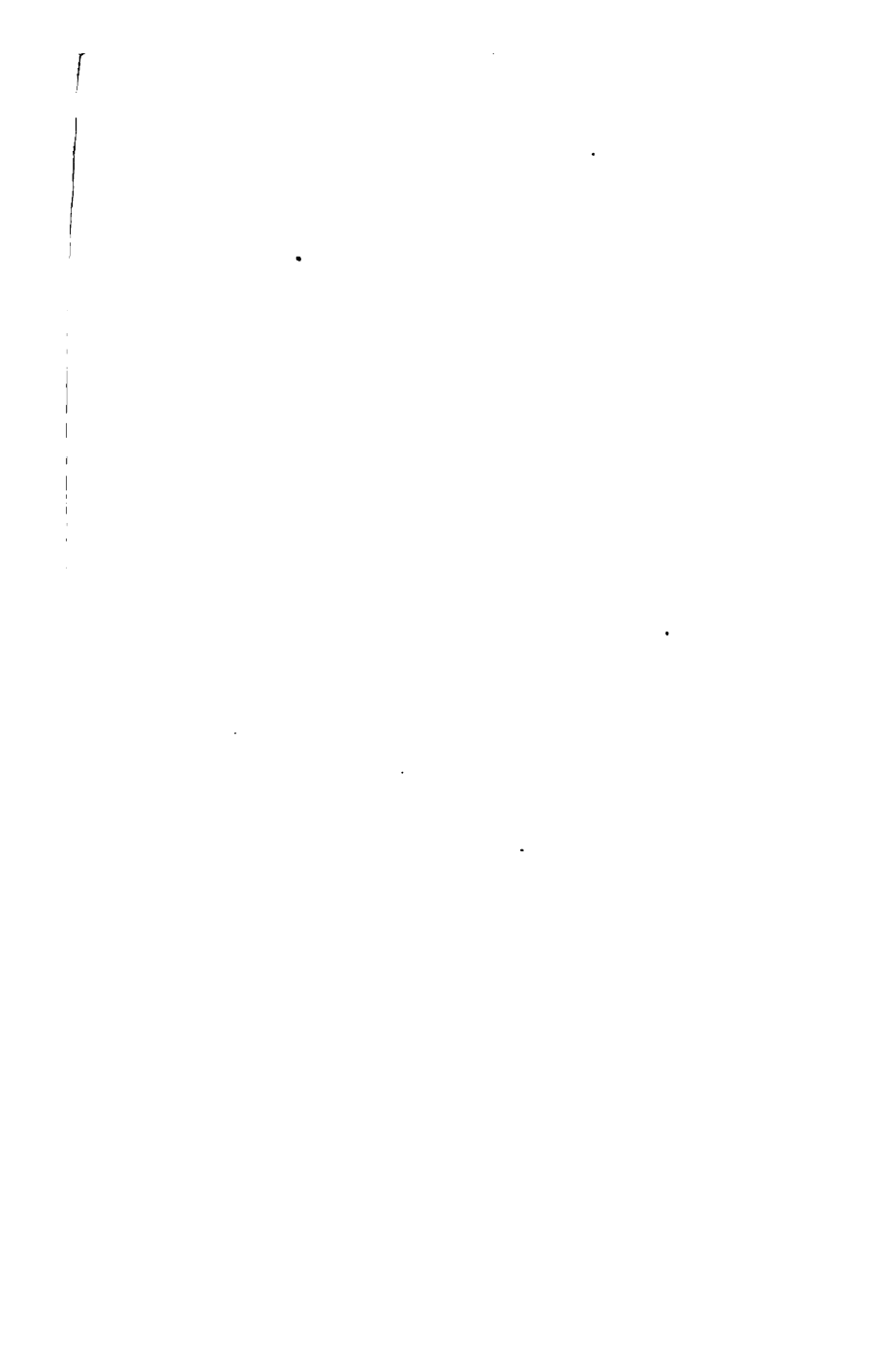




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